

REMARKS/ARGUMENTS

This case has been reviewed and analyzed in view of the Official Action dated 7 August 2003. Responsive to the rejections made by the Examiner in the Official Action, Claims 1, 3, and 9 have been amended and Claims 4, 5, 14, and 15 have been canceled to more clearly clarify the inventive concept of the Applicant.

It is respectfully noted that the Examiner has stated that Claims 5 and 15 are merely objected to as being dependent upon a rejected base Claim, but would be allowable if rewritten in Independent form including all of the limitations of the base Claim and any intervening Claims. Newly-amended Claims 1 and 9 now incorporate the limitations of now-canceled Claims 5 and 15, respectively. Thus, it is believed that Claims 1-3 and 6-13 have now been placed in condition for allowance, and such action is respectfully requested.

The Examiner has objected to two specific examples of idiomatic errors in Claim 1 and Claim 1 has now been amended to overcome the Examiner's objections.

The Examiner has further rejected Claims 3 and 9 under 35 U.S.C. § 112, second paragraph, due to their usage of specific Trademark/Trade Names. The Trademark/Trade Names have been removed from newly-amended Claims 3 and 9 and the proper descriptions (i.e., "1.2mm") have been inserted therefor. It is now believed that Claims 3 and 9 satisfy the requirements of 35 U.S.C. § 112, second paragraph.

The Examiner has additionally rejected Claims 1-4, 7-8 under 35 U.S.C. § 102(e) as being anticipated by the Dilday Patent #6,484,940. It is the Examiner's contention that the Dilday reference teaches all elements of Claims 1-4, 7-8 as filed.

The Dilday reference is directed to a data storage card having both linear and annular data regions. As shown in Figs. 1A and 1B, the card includes a substantially planar card body 304 defining a first planar surface 306 and defining a second planar surface 308. The card includes card body 304 having both optical and magnetic data storage regions formed to cooperatively engage both a drive mechanism of a magnetic stripe reader and a drive mechanism of an optical data reader. As shown in Figs. 1A, 1B, 4 and 7, the magnetic card portion and the optical disc region are formed integrally with respect to one another. Thus, there is no need for a positioning member for receiving a separate card.

In the system of the subject Patent Application, as shown in Fig. 3 of the Patent Application Drawings, the card 40 is removable from the casing plate 50. The casing plate 50 has a positioning member 55 formed thereon, with the positioning member 55 having either a smooth surface or being formed into a plurality of tooth-shaped units 555. The positioning member 55 engages aperture 41 of card 40. The Dilday reference does not include a positioning member having either a smooth surface or tooth-shaped units.

Further, the Dilday reference teaches a card body 10 having a minimal thickness T1 of approximately 0.76mm. The thickness T2 of the card body 10 may be thicker

where the optical region 28 is disposed, measuring approximately 0.90mm. This, however, does not conform to the standard compact disc thickness required by standardized compact disc players. According to the compact disc digital audio standard described in the "Red Book" and the "Compact Disc Recordable Standard", the standard optical disc thickness is 1.2mm. The Dilday reference teaches a disc which may not play in some or all compact disc players. The system of the subject Patent Application, however, includes a casing plate having a thickness of 1.2mm, thus conforming with the Compact Disc Standards.

Thus, the Dilday reference does not provide for: "...a positioning member being formed on said casing plate, said positioning member having one of a smooth top surface and a plurality of tooth-shaped units...said card being provided with a reading area, an aperture being formed through the center of said reading area, said aperture being adapted to receive said positioning member...", as is clearly provided in newly-amended Independent Claims 1 and 9.

Thus, based upon the newly-amended Independent Claims 1 and 9, it is not believed that the subject Application is anticipated by, or is made obvious by, the Dilday reference, when Independent Claims 1 and 9 are carefully reviewed.

The Examiner has additionally rejected Claims 9-14 under 35 U.S.C. § 103(a) as being unpatentable over the Dilday reference in view of the Simmons Patent #5,513,749. It is the Examiner's contention that it would have been obvious to one of ordinary skill in

the art at the time the invention was made to incorporate transparent plastic into the casing plate as taught by Simmons to the teachings of Dilday in order to provide an aesthetically appealing casing plate.

The Simmons reference is directed to a storage case for multiple compact discs. As shown in Fig. 2, the system includes a top half 12, bottom half 14, and a standard body defining a box of substantially equal exterior size and shape to a “standard” CD jewel case. Preferably top half 12 and bottom half 14 are both made of rigid transparent plastics. This reference is included purely because of the transparent rigid plastics used in the case and is not directed to a data storage card including either a magnetic system or an optical disc storage region. Thus, the Simmons reference does not teach the use of a casing plate or a card, specifically no positioning member is taught by the Simmons reference, as one would be unnecessary.

Thus, neither the Dilday reference nor the Simmons reference, when taken alone or in combination, teach or suggest the use of a positioning member having a smooth surface or tooth-shaped units. The system of the subject Patent Application, however, as shown in Fig. 3 of the subject Patent Application Drawings, includes a positioning member 55 formed on casing plate 50, with the positioning member 55 either having a smooth surface or being formed into a plurality of tooth-shaped units 555.

Thus, neither the Dilday reference nor the Simmons reference, when taken alone or in combination, provide for: “...a positioning member being formed on said casing

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plate, said positioning member having one of a smooth top surface and a plurality of tooth-shaped units...said cart being provided with a reading area, an aperture being formed through the center of said reading area, said aperture being adapted to receive said positioning member...", as is clearly provided by newly-amended Independent Claims 1 and 9.

Thus, based upon the newly-amended Independent Claims 1 and 9, it is not believed that the subject Application is made obvious in view of either the Dilday reference or the Simmons reference, when taken alone or in combination, when Independent Claims 1 and 9 are carefully reviewed.

It is now believed that the remaining Claims 2, 3, 6-8, 10-13 show patentable distinction over the prior art cited by the Examiner for at least the same reasons as those previously discussed for Independent Claims 1 and 9.

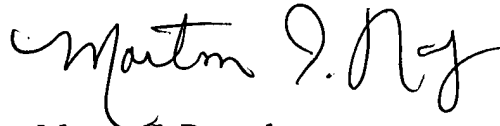
The remaining references cited by the Examiner but not used in the rejection have been reviewed, but are believed to be further removed when patentable distinctions are taken into account than those cited by the Examiner in the rejection.

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It is now believed that the subject Patent Application has been placed in condition
for allowance, and such action is respectfully requested.

Respectfully submitted,

FOR: ROSENBERG KLEIN & LEE

A handwritten signature in black ink, appearing to read "Morton J. Rosenberg".

Morton J. Rosenberg
Registration #26,049

11/6/03
Date

3458 Ellicott Center Drive, Suite 101
Ellicott City, MD 21043
(410) 465-6678